



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1996

Ms. Susan G. Spinks
Assistant General Counsel
The Texas A&M University System
301 Tarrow, 6th Floor
College Station, Texas 77843-1230

OR96-1785

Dear Ms. Spinks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101146.

The Texas A&M University System received a request for the following information:

1. Copies of all the records held by Mr. Scott Kelly and/or other attorneys relating in any way to the relationship between Darryl King, Quality Concessions, and Prairie View A&M University;
2. Copies of any vending or concessionaire contracts awarded since January 1992;
3. A copy of all policies touching on, relating to, or dealing with vandalism--including all such policies in effect since 1991;
4. Copies of any and all documents and reports--police or otherwise--pertaining to vandalism of vending machines and other concessions since 1991;
5. A profile and explanation of Mr. Ken Talton's relationship with Prairie View A&M University specifying his role in contracts for vending at the university;
6. Copies of any correspondence between Mr. Ken Talton and Canteen Food Service since the beginning of Mr. Talton's involvement with Prairie View A&M University;
7. A profile and explanation of Mr. Bonner's relationship with Prairie View A&M University; and

8. A profile and explanation of Mr. Jackson's relationship with Prairie View A&M University.

You explain that some of the requested information will be released to the requestor. You claim, however, that five responsive documents are protected from required public disclosure by section 552.107 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.¹

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from public disclosure only "privileged information;" that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions. The privilege does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107(1) protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We find that four of the submitted documents are protected under section 552.107(1). We do not believe, however, that the memorandum dated July 23, 1992, reveals the client's confidential communications or the attorney's legal opinion or advice; thus, it may not be withheld under section 552.107(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

¹In your request for a decision from this office, you also argue that section 552.108 would protect any police reports concerning vandalism of the vending machines. You state that if you found any responsive documents that you would forward them to this office. As of the date of this letter, we have received no additional documents. This ruling, therefore, does not address your argument under section 552.108. We note, however, that the Open Records Act does not ordinarily require a governmental body to obtain information not in its possession. Open Records Decision Nos. 558 (1990), 499 (1988). Nor does the Open Records Act require a governmental body to make available information which does not exist. Open Records Decision No. 362 (1983).

Ref: ID# 101146

Enclosures: Submitted documents

cc: Mr. Michael D. Weiss
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(w/o enclosures)